

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Abingdon Division**

JAMES WOOD,)
)
Plaintiff,)
)
v.) **Case No. 1:22CV000018**
)
BRISTOL VIRGINIA UTILITY)
AUTHORITY,)
)
Defendant.)

PLAINTIFF'S MOTION FOR LEAVE TO CONDUCT DISCOVERY

COMES NOW Plaintiff James Wood (hereinafter, “Mr. Wood” or “Plaintiff”), by counsel, and submits this Motion for Leave to Conduct Discovery. In support of this Motion, Plaintiff, by counsel, provides the following:

1. This Court entered an Opinion and Order in this matter on August 29, 2022 regarding Defendant’s Motion to Dismiss for Lack of Subject Matter Jurisdiction, directing Defendant to file evidence and additional briefing to support its motion, and providing that Plaintiff may apply for leave to conduct discovery for additional evidence relevant to the issue of sovereign immunity [Dkt. No. 17].

2. Defendant Bristol Virginia Utility Authority filed a Response to the Court’s Order on September 12, 2022, attaching an evidentiary affidavit and four additional exhibits [Docket Nos. 18-18.5].

3. Within Defendant’s most recent filing, Defendant concedes that the most significant and determinative factor in weighing whether Defendant has sovereign immunity favors Plaintiff. (“A judgment against Defendant would not be paid from the

Commonwealth's treasury." [Dkt. No. 18, page 5].) On that fact alone this matter should proceed. The Court should deny Defendant's motion.

4. However, because Defendant has produced evidence at this stage in litigation, if the Court has questions or concerns related to Defendant's recent filings, in order to fully inform the Court of relevant facts, Plaintiff's counsel will require additional evidence and therefore requests leave to conduct limited discovery relevant to the issues of sovereign immunity.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order either denying Defendant's motion or, in the alternative, granting leave to Plaintiff to conduct limited discovery in this matter relevant to the issues of sovereign immunity.

Respectfully submitted,

JAMES WOOD

By /s/ Thomas E. Strelka

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 25th of September, 2022, the foregoing was filed using the CM/ECF system, which will send notification to all counsel of record.

/s/ Thomas E. Strelka
Thomas E. Strelka